

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

This filing relates to ERS.

**REPLY OF THE EMPLOYEES RETIREMENT SYSTEM OF THE GOVERNMENT OF
THE COMMONWEALTH OF PUERTO RICO TO THE RESPONSE FILED BY
MIGDALIA GONZÁLEZ VEGA [ECF NO. 18107] TO THE THREE HUNDRED SIXTY-
SEVENTH OMNIBUS OBJECTION (NON-SUBSTANTIVE)
TO INCORRECT DEBTOR CLAIMS**

To the Honorable United States District Judge Laura Taylor Swain:

The Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS” or the “Debtor”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Debtor pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA” and together with the Commonwealth, COFINA, HTA, and ERS, the “Debtors”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

(“PROMESA”),² files this reply (the “Reply”) to the response [ECF No. 18107] (the “Response”) filed by claimant Migdalia González Vega (“González Vega”) to the *Three Hundred Sixty-Seventh Omnibus Objection (Non-Substantive) of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico to Incorrect Debtor Claims* [ECF No. 17933] (the “Three Hundred Sixty-Seventh Omnibus Objection”). In support of this Reply, ERS respectfully represents as follows:

1. On August 20, 2021 ERS filed the Three Hundred Sixty-Seventh Omnibus Objection seeking to reclassify certain claims (collectively, the “Claims to Be Reclassified”), each as listed on Exhibit A thereto. As set forth in the Three Hundred Sixty-Seventh Omnibus Objection and supporting exhibits thereto, the Claims to Be Reclassified identify ERS as the obligor when they are properly asserted, if at all, against the Commonwealth of Puerto Rico (the “Commonwealth”). As explained in the Three Hundred Sixty-Seventh Omnibus Objection, pursuant to Joint Resolution 188³ and Act 106 (collectively, the “Legislation”), the Commonwealth assumed any obligation to make payments to pensioners or other beneficiaries of ERS. Accordingly, any claims asserting an entitlement to pension or other benefits by individuals previously participating in ERS properly lie against the Commonwealth. Further, certain of the Claims to Be Reclassified assert liabilities against the Commonwealth or its component agencies for salaries, wage benefits, or alleged employment discrimination. Such claims are also properly asserted, if at all, against the Commonwealth, and not ERS.

2. Any party who disputed the Three Hundred Sixty-Seventh Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on September 20, 2021 in

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

³ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Three Hundred Sixty-Seventh Omnibus Objection.

accordance with the Court-approved notice attached to the Three Hundred Sixty-Seventh Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Omnibus Objections, the U.S. Trustee, and the Master Service List (as defined in the *Fifteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 17127-1]). *See Certificate of Service* [ECF No. 17989].

3. The Response, a Spanish-language letter, was filed with the Court on September 13, 2021, and docketed as ECF No. 18107 on September 14, 2021. Therein, González Vega does not dispute that her proof of claim, which was filed against ERS on June 27, 2018 and logged by Prime Clerk as Proof of Claim No. 106655 (the “Claim”), purports to assert liabilities associated with González Vega’s employment relationship with the Commonwealth and/or its agencies. The Response likewise does not dispute that claims asserting an entitlement to accrued but unpaid salaries are properly asserted, if at all, against the Commonwealth, and, pursuant to the Litigation, claims asserting an entitlement to pension benefits are also properly asserted, if at all, against the Commonwealth. Rather, the Response simply requests that the asserted amount of the Claim be increased from \$1,500 to \$25,000. Response at 1.

4. Accordingly, because González Vega does not dispute that the Claim is properly asserted against the Commonwealth, the Claim should be reclassified to be asserted against the Commonwealth. The Debtors therefore respectfully request that the Court grant the Three Hundred Sixty-Seventh Omnibus Objection and reclassify the Claim, notwithstanding the Response.

Dated: January 5, 2022
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

Hermann D. Bauer
USDC No. 215205
Carla García Benítez
USDC No. 203708

O'NEILL & BORGES LLC
250 Muñoz Rivera Ave., Suite 800
San Juan, PR 00918-1813
Tel: (787) 764-8181
Fax: (787) 753-8944

/s/ Brian S. Rosen

Martin J. Bienenstock (*pro hac vice*)
Brian S. Rosen (*pro hac vice*)
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036
Tel: (212) 969-3000
Fax: (212) 969-2900

*Attorneys for the Financial Oversight and
Management Board as representative for the
Employees Retirement System of the
Government of the Commonwealth of Puerto
Rico*